

Remarks

Claims 51-118 are pending in this application. Claims 86 and 98 have been amended merely to correct typographical errors and do not present new matter. Reconsideration of the above identified application, in light of the following remarks, is respectfully requested.

U.S.C. 102(b) Rejection

In the Office Action dated March 13, 2006, the Examiner rejected claims 98-118 under U.S.C. 102(b) as allegedly being anticipated by Goins et al. (U.S. Patent No. 5,685,453). Applicant respectfully traverses this rejection.

Independent claim 98 of the present application is directed to a base for a food container and explicitly recites, *inter alia*, that the base comprises "a plurality of upwardly extending first rib units, which include a first outward rib projecting away from the interior and a first inward rib projecting towards the interior".

In contrast to Applicant's invention as claimed in claim 98, Goins discloses a lid for engaging a base member, wherein the lid includes a rib structure which consists solely of outwardly projecting ribs. The rib structure of Goins does not disclose both outwardly and inwardly projecting ribs, within the same rib unit, as claimed. Indeed, as explicitly stated in column 3, lines 4-15, the lid member of Goins "is comprised of at least first and second generally vertical and outwardly directed ribs 26 and 28" (emphasis added), and furthermore, "the outermost portions 30 of the first ribs 26 and the outermost portions 31 of the second ribs 28 are approximately the same radial distance from the central vertical axis of the cover 10" (emphasis added). Therefore, both of the ribs 26 and 28 of Goins project outwardly, and neither of these ribs projects inwardly, as interpreted by the Examiner. The Examiner also interprets the inwardly projecting rib to include gussets 42; however, these gussets necessarily project outwardly (and downwardly) in order to interconnect with the outwardly projecting ribs 26 and 28, as best illustrated in Fig. 1a, and thus can not be considered to define an inwardly projecting rib.

Additionally, in contrast to Applicant's invention as claimed in claim 98, Goins does not disclose a base for a food container having a rib structure. The Examiner, though, interprets the

lid of Goins to be capable of being used as a base, if turned upside-down and used like a bowl. However, this interpretation directly contradicts the disclosure of Goins which explicitly recites the base as member (12), and not member (10), as construed by the Examiner. Further, Goins explicitly discloses significant structure in the base member (12) such as a raised dome (54), and ribs or grooves (60, 62) formed in the bottom of the base member which "minimizes movement or slipping of the product accommodated within the food packaging container" (column 5, lines 1-3). Accordingly, the base (12) of Goins has a significant and deliberate structure which provides advantages to its performance, i.e., maintains the product in a secure position, and is distinct from the lid (10). Therefore, the Examiner's interpretation of the Goins lid (10), as capable of serving as a base member, negates the explicit objective of Goins in that the lid (10) does not contain any of the structure (i.e., raised dome 54, or ribs 60, 62) to secure the product from slipping. Consequently, the use of the lid (10) as a base, as suggested by the Examiner, would defeat the aim of the Goins reference.

Accordingly, the Goins reference does not disclose or teach each of the limitations claimed, and therefore does not substantiate a U.S.C. 102(b) rejection of the invention as claimed. As such, Applicant respectfully requests that the Examiner rescind the U.S.C. 102(b) rejection set forth above.

U.S.C. 103(a) Rejection

The Examiner rejected claims 51-73 under U.S.C. 103(a) as allegedly being obvious over Goins et al. (U.S. Patent No. 5,685,453) in view of Lucas (US Patent No. 5,441,166). Applicant respectfully traverses this rejection.

Independent claim 51 of the present application is directed to a base for a food container and explicitly recites, *inter alia*, that the base comprises "a plurality of first rib units formed in the sidewall upwardly extending from the bottom, each of the plurality of first rib units including a first outward projecting rib extending away from the interior and a first inward projecting rib extending towards the interior, the first inward projecting rib being formed within the first outward projecting rib".

As discussed above, Goins does not disclose inwardly projecting ribs whatsoever, let alone an inward projecting rib formed within an outward projecting rib as claimed. Instead, as

plainly stated in column 1, lines 46-54 Goins discloses that “the side wall contains at least first and second generally vertical and outwardly directed ribs that repeat in a predetermined pattern” (emphasis added). The Examiner acknowledges that Goins does not disclose inwardly projecting ribs of different vertical heights within the sidewall.

The Examiner then relies on Lucas to teach ribs of different vertical height; however Lucas does not remedy the deficiencies of Goins, i.e., Lucas does not disclose both inwardly and outwardly projecting ribs. In contrast with Applicant’s claimed subject matter, Lucas describes a dome cover for a tray having inwardly inclined surfaces 51, 52, and does not disclose or suggest, among other things, both inwardly and outwardly projecting ribs. Moreover, Lucas certainly does not disclose an inwardly projecting rib formed within an outwardly projecting rib, as recited in claim 51.

Accordingly, neither Goins nor Lucas, whether considered separately or in combination, disclose or suggest each and every feature of independent claim 51 in that neither reference discloses both inwardly and outwardly projecting ribs. Additionally, neither reference discloses an inwardly projecting rib formed within an outwardly projecting rib. Therefore, assuming *arguendo*, that there is sufficient motivation to combine these separate references cited by the Examiner, the combination of references does not disclose all of the features as recited in claim 51 and consequently does not substantiate a *prima facie* case of obviousness as required under U.S.C. 103(a) (see MPEP 706.02(j)).

In view of the above, Applicant respectfully submits that independent claims 51 and 98 are allowable over the prior art of record. Because independent claims 51 and 98 are allowable, claims 52-73, and 99-118 are also allowable at least for depending therefrom.

Furthermore, dependent claims 52-73, and 99-118 are further allowable for reciting additional features not disclosed by the prior art relied upon by the Examiner. For example, claims 52-61, 71-73, 99-107 recite additional features of the configuration of the first and second ribs, and claims 62-70, 108-118 recite features of a third rib unit.

Obvious-type Double Patenting Rejection

Claims 51-118 were rejected under nonstatutory obvious-type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 6,619,501 to Hayes et al. Applicant hereby files a Terminal Disclaimer to overcome this rejection.

Allowable Subject Matter

On the Office Action Summary page of the Office Action dated March 13, 2006, the Examiner indicated that claims 74-97 are allowable. Applicant appreciates the Examiner's favorable review.

Formal Request for Interview

Applicant submits that the present application is in condition for allowance at least for the reasons set forth herein. If the present application is not considered to be in condition for allowance by the Examiner, Applicant requests an interview with the Examiner to discuss the present application and the prior art of record. Applicant's Attorney Daniel J. Hulseberg may be reached at telephone number (212) 408-2594 to schedule a mutually convenient date and time and to provide assistance or additional information as required.

CONCLUSION

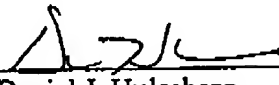
On the basis of the foregoing Amendment and Remarks, and the filing of a Terminal Disclaimer herewith, Applicant respectfully submits that the pending claims of the present application are allowable over the prior art of record. Applicant thus respectfully requests that the previous rejections of the pending claims be withdrawn. Favorable consideration and timely allowance of this application are respectfully requested.

Applicant authorizes the Commissioner to charge any fees (including fees for extra claims) and/or credit any overpayments associated with this paper to Baker Botts L.L.P. Deposit Account No. 02-4377, Ref. No. 077410.0467.

Further, if a fee is required for an extension of time under 37 C.F.R. § 1.136 not provided for above, Applicant requests such extension and authorizes the charging of the extension fee to Baker Botts L.L.P. Deposit Account No. 02-4377, Ref. No. 077410.0467.

Respectfully submitted,

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Date


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